IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

RFA.No. 248 of 2007()

OS.149/2004 of SUB COURT,NEYYATTINKARA
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: APPELLANTS/FIRST DEFENDANT
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1. KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
NEYYATTINKARA DIVISION, NEYYATTINKARA.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PLAINTIFFS
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1. SRI.SREEDHARAN, S/O CHELLAYYAN NADAR,
AGED 50, RESIDING AT PERUMANCHIR VEEDU,
NEAR KUTTIYANIKADU DESOM, KEEZHAROOR VILLAGE.

2. MS. BEENA, D/O SHYAMALA, AGED 21,
RESIDING AT PERUMANCHIRA VEEDU,
NEAR KUTTIYANIKADU DESOM, KEEZHAROOR VILLAGE.

3. SRI. SUNIL, S/O SREEDHARAN,
AGED 19, RESIDING AT PERUMANCHIRA VEEDU,
NEAR KUTTIYANIKADU DESOM,
KEEZHAROOR VILLAGE.

4. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

BY

THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVDERED THE FOLLOWING:

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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C.M.Appl. No.769/2007 & R.F.A.NO.248/2007

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Dated this the 11th day of June, 2007

JUDGMENT

T.R. Ramachandran Nair, J.

This appeal arises from the decree and judgment in O.S. No.149/2004 of the Sub Court, Neyyattinkara dated 14.3.2006. Appellants 1 and 2 respectively, the Kerala State Electricity Board and its Executive Engineer are defendants 1 and 2 in the suit. C.M. Appl. No.769/2007 is one filed seeking to condone the delay of 101 days in filing the appeal. The reason stated in the affidavit is that after the certified copy was received, sanction had to be obtained from the Board for filing the appeal. This is the sole averment in the affidavit filed in support of the application. It is seen from the certified copy of the judgment that application for copy was filed only on 5.7.2006, even though the judgment was delivered on 14.3.2006. The copy was ready on 10.7.2006 and the same had been delivered on 20.7.2006. Therefore, the period for filing the appeal was over on the date of filing the application for copy of the judgment, evidently. After getting the copy of the judgment, the appeal is filed on 29.9.2006 which is the date seen from the memorandum of appeal. Therefore, there is a long delay in

filing the appeal.

2. The reasons stated to condone the delay are not sufficient. No details have been given in the affidavit for the delay in getting certified copy and also as to the cause for the delay in getting sanction for filing the appeal. The averments are only vague and are not sufficient to condone the delay. Hence, we are not satisfied that sufficient reasons have been shown to condone the delay.

3. The suit was one filed claiming damages by the plaintiffs who are the husband and children of deceased Syamala. She died after suffering electric shock on 13.5.2003 at 5.30 a.m. The claim was rested on the ground that she was electrocuted as a result of the negligence on the part of the officials of the Board by leaving a portion of the electric wire idle at the place of accident.

4. The claim was to the tune of Rs.5 Lakhs. The court below, after evaluating the evidence, allowed the plaintiffs to realise a sum of Rs.1,60,000/- along with interest at the rate of 6% per annum from the date of suit. Negligence was clearly established in evidence. The deceased was working as a Cook at the time of accident and the daily earnings have been assessed at Rs.50/- per day and monthly income has been quantified as Rs.1,500/-. Deducting 1/3rd towards her personal expenses, Rs.1,000/- has been adopted as the multiplicant. She was aged 47 years at the time of the

accident which is proved by Ext.A3. The court below has fixed 60 years as the age upto which she could have normally worked and earned her wages, which is reasonable in the circumstances of the case. It is well accepted that the average life span is taken as 70 years. The multiplier thus adopted is 13 and accordingly an amount of Rs.1,56,000/- has been assessed towards general damages and Rs.4,000/- towards special damages. The interest awarded is only 6% per annum from the date of suit. We find, on an assessment of the entire aspects that the assessment of general damages does not suffer from any legal infirmity. The multiplicant and the multiplier have been adopted in accordance with the well accepted principles and there is no error in it. Therefore, on the merits also, we are satisfied that the judgment and decree do not call for any interference.

For the above reasons, the delay petition and the appeal are hereby dismissed without any order as to costs.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)

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